



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

HD:hd

Docket No: 04025-99

23 November 1999

CD [REDACTED] USN
[REDACTED]

Dear Command [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

You requested, in effect, removal of the original fitness report for 1 November 1996 to 31 August 1997 and the reporting senior's letter dated 18 December 1997, and inclusion in your record of a revised report for the same period changing your promotion recommendation from "promotable" to "must promote." Your request to include a revised report in your record was not considered, as you have not exhausted your administrative remedies; the reporting senior must submit such a report to the Navy Personnel Command (NPC) with the required transmittal letter.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by NPC dated 8 September and 17 November 1999, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice regarding the contested original fitness report. The Board found that this report was adequately corrected by the filing of the reporting senior's letter dated 18 December 1997, which clearly shows your promotion recommendation of "promotable" resulted from improper application of the upper limits on "must promote" and "early promote" recommendations. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

4025-99

1610
PERS-311
8 September 1999

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: CDR [REDACTED] USA, [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his fitness report for the period 1 November 1996 to 31 August 1997 and replace it with a supplemental report for the same period.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the report in question to be on file. It is signed by the member acknowledging the contents of the report and his right to submit a statement. The member did not desire to make a statement. The supplemental fitness report has never been received by PERS-311, however the member provided a copy with his petition. The supplemental cover letter appears to be a fitness report letter supplement vice a supplemental fitness report cover letter. The cover letter is properly reflected in the member's digitized record. The cover letter is dated 18 December 1997 and the supplemental fitness report is dated 8 September 1998.

b. The petitioner inappropriately refers to the changes to the fitness report as administrative changes. Changes to the performance marks, promotion recommendation and ranking are not administrative changes. Such actions constitute a supplementation of the original report. Properly, and in accordance with reference (a), a supplement does not change the original report, it merely adds information to the record. In this case the original report recommends "Promotable" while the supplement letter recommends "Must Promote".

c. The member states the original and supplemental fitness reports appear on his Performance Summary Record (PSR). The indication of "SUPP" does not indicate two fitness reports, only that supplemental information has been received. In this case the reporting senior's cover letter is filed next to the original fitness report since the supplemental fitness report was never received.

d. The member does not prove the report to be unjust or in error.

3. We recommend retention of the original report, removal of the letter supplement, and the placement of the supplemental report in the member's headquarters record.

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Head, Performance
Evaluation Branch

4025-99



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1610
PERS-311
17 November 1999

AMENDMENT

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: CDR [REDACTED] USN, [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his fitness report for the period 1 November 1996 to 31 August 1997 and replace it with a supplemental report for the same period.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the report in question to be on file. It is signed by the member acknowledging the contents of the report and his right to submit a statement. The member did not desire to make a statement. The supplemental fitness report has never been received by PERS-311, however the member provided a copy with his petition. The supplemental cover letter appears to be a fitness report letter supplement vice a supplemental fitness report cover letter. The cover letter is properly reflected in the member's digitized record. The cover letter is dated 18 December 1997 and the supplemental fitness report is dated 8 September 1998.

b. The petitioner inappropriately refers to the changes to the fitness report as administrative changes. Changes to the performance marks, promotion recommendation and ranking are not administrative changes. Such actions constitute a supplementation of the original report. Properly, and in accordance with reference (a), a supplement does not change the original report, it merely adds information to the record. In this case the original report recommends "Promotable" while the supplement letter recommends "Must Promote".

c. The member states the original and supplemental fitness reports appear on his Performance Summary Record (PSR). The indication of "SUPP" does not indicate two fitness reports, only that supplemental information has been received. In this case the reporting senior's cover letter is filed next to the original fitness report since the supplemental fitness report was never received.

4025-99

- d. The member does not prove the report to be unjust or in error.
3. We recommend retention of the original report, and the letter supplement. However, if the member submits the supplemental fitness report with the required cover letter, we would have no objection to removing the letter supplement and replacing it with the supplemental fitness report and cover letter.

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Head, Performance
Evaluation Branch